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REMARKS

In the Final Office Action, the Examiner rejected claims 1-25. By this paper, Applicants cancelled claims 4-6, 11-15, 20, and 23, added new claims 26-28, and amended claims 1-3, 7-9, 16-19, 21-22, and 24-25 for clarification of certain features to expedite allowance of the present application. These amendments do not add any new matter. Upon entry of these amendments, claims 1-3, 7-10, 16-19, 21, 22, and 24-28 will be pending in the present application and are believed to be in condition for allowance. In view of the foregoing amendments and the following remarks, Applicants respectfully request reconsideration and allowance of all pending claims.

Claim Rejections under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-20, 22, and 24 under U.S.C. § 102(e) as anticipated by Kahn et al (U.S.-2002/0069204 06/06/02). Applicants respectfully traverse this rejection.

Legal Precedent

First, during patent examination, the pending claims must be given an interpretation that is reasonable and consistent with the specification. *See In re Prater*, 415 F.2d 1393, 1404-05, 162 U.S.P.Q. 541, 550-51 (C.C.P.A. 1969); *see also* M.P.E.P. §§ 608.01(o) and 2111. Indeed, the specification is "the primary basis for construing the claims." *See Phillips v. AWH Corp.*, No. 03-1269, -1286, at 13-16 (Fed. Cir. July 12, 2005) (citations omitted). Interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. *See In re Cortright*, 165 F.3d 1353, 1359, 49 U.S.P.Q.2d 1464, 1468 (Fed. Cir. 1999); M.P.E.P. § 2111. "The inquiry into how a person of ordinary skill in the art understands a claim term provides an objective baseline from which to begin claim interpretation." *See Collegenet, Inc. v. ApplyYourself, Inc.*, No. 04-1202, -1222, 1251, at 8-9 (Fed. Cir. August 2, 2005) (quoting *Phillips*).

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Second, anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). The prior art reference also must show the *identical* invention *"in as complete detail as contained in the ... claim"* to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

Claim Features Omitted from Kahn

Turning to the claims, the present independent claim 1, as amended, recites "*generating the object file in real-time* . . . and populating the Web page with the dynamic data via the object file." Conversely, the Kahn reference discloses that content for a dynamic Web page is retrieved from a *pre-existing* database *without generating a file or an object file*. *See* page 1, para. 0005. Instead, the content is assembled *directly* into the dynamic page at run time by means of templates. *See id.* Therefore, the Kahn reference cannot anticipate independent claim 1 or its dependent claims.

Independent claim 8, as amended, recites "accessing dynamic data from the embedded system and *creating the dynamic data file in real-time* independently of the Web page. . . and transmitting the dynamic data file from the embedded system to the remote browser." In sharp contrast, Kahn discloses that a Web page receives data *directly* from a database via a dynamic database reader (DDR) and a control program (CP). *See* page 1, paras. 0025, 0027, 0028; page 4, paras. 0046 and 0048; page 5, paras. 0050, 0053, and 0058; Fig. 3, blocks 306-312. While the CP may work in conjunction with the DDR to format the data, *no data file is created. See id.*

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Moreover, while the CP may facilitate altering the data in the *pre-existing* database via an applications programs interface (API), *no data file is created* as the modified data is delivered to the browser for rendering and presentation to the user. *See* para. 0028. Therefore, the Kahn reference cannot anticipate independent claim 8 or its dependent claims.

Independent claim 16, as amended, recites "a data collection module adapted to retrieve the dynamic data to *generate the file*. . . and a data population module adapted to *merge the dynamic data in the file* with the dynamic Web page." Again, in contrast, Kahn discloses that a control program (CP) works in conjunction with a Dynamic Database Reader (DDR) to retrieve content *directly* from a *pre-existing* file in a database. *See* page 1, paras. 0025, 0027, 0028; page 4, paras. 0046 and 0048; page 5, paras. 0050, 0053, and 0058; Fig. 3, blocks 306-312. The DDR is *not* adapted to create a data file during the collection of the data. *See id.* As discussed, the data is retrieved by the DDR for *direct* rendering in a Web browser *without generating an intermediate file*. *See id.* Therefore, the Kahn reference cannot anticipate independent claim 16 or its dependent claims.

Surprisingly, in the Final Office Action, the Examiner contended that the act of "generating a data file" as claimed is <u>not</u> equivalent to creating a file. *See* Final Office Action, page 8. However, Applicants stress that the present specification supports the plain meaning of generating a data file as creating a file. *See Phillips*, No. 03-1269, -1286, at 29 ("The specification is always highly relevant to the claim construction analysis. Usually, it is dispositive."). For example, the code listed on page 8 of the specification shows a JavaScript reference to an object file "JSFunct.js" and <u>not</u> to a data variable. *See* Application, page 8, line 12. The JSFunct.js file is "used to transfer, format, and merge the dynamic data 116 with the Web pages 114." *See* Application, page 8, lines 24-25.

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In view of the *Phillips* case, Applicants submit that embodiments of the
present technique utilize an intermediate file that is created at the managed server and
is transmitted to the requesting computer (and stored in cache of the requesting
computer, for example). Thus, the Web page executed at the requesting computer
references a generic file name (i.e., of the data file or object file) rather than specific
data variables, as taught by Kahn. *See, e.g.*, Application, page 12, lines 1-16; Kahn,
page 4, para. 0046. The present approach of constructing the Web page to reference a
generic file name instead of specific data parameters facilitates separation of the
upstream development of the Web pages and the database. *See, e.g.*, Application,
page 16, lines 5-15. Applicants emphasize that the presently claimed approach clearly
differs form Kahn, which is directed to streaming data directly via specified
parameters in the code of the Kahn Web pages and to linking of the Web pages with
the Kahn database 112 to permit in-context editing of the database 112 via the
browser 102. *See, e.g.*, Kahn, Abstract; page 4, para. 0046.

In addition, independent claim 1, as amended, recites a method, comprising
"providing a Web page to a requesting computer from a file system embedded within
the managed server." Similarly, independent claim 8 recites a method of operating a
managed server, comprising "providing a Web page to a remote browser from an
embedded system disposed within the managed server." Lastly, independent claim
16, as amended, recites a managed server, comprising "a management module
embedded within the managed server [and] a file system disposed on the management
module and configured to store Web pages to be served to a requesting computer via
the Web server."

In contrast, Applicants stress that Kahn is absolutely devoid of a "managed
server." While Kahn is directed to in-context editing and therefore teaches editing of
database content via an Internet browser 102, the cited reference clearly does not teach
a "managed server." *See* Kahn; Abstract; Fig. 1A. For example, there is no indication
in the Kahn reference that the server 110 of Fig. 1A is a managed server. *See* Kahn,

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Fig. 1A. Accordingly, Kahn cannot anticipate claims 1, 8, and 16, or their dependent claims for this reason as well.

Further, Kahn does not disclose a <u>file system or management module</u> <u>embedded</u> in a managed server, or any type of <u>embedded</u> system within a managed server. *See, e.g.,* Kahn, pages 2 and 3, paras. 0015-0031; Figs 1A – 3A. As understood by those of ordinary skill in the art, an embedded system in a managed server is generally a component of the managed server, for example, a server management card having code and files burnt onto its Read Only Memory. *See Collegenet, Inc. v. ApplyYourself, Inc.,* No. 04-1202, -1222, 1251, at 8-9 (Fed. Cir. August 2, 2005) (holding that derivation of a claim term must be based on "usage in the ordinary and accustomed meaning of the words amongst artisans of ordinary skill in the relevant art"). While Kahn discloses a control program 108 and static pages 118 stored on a fixed storage device 118 such as an erasable hard drive, Kahn is absolutely devoid of an *embedded system* in a managed server. *See* Fig. 1A. Accordingly, Kahn cannot anticipate claims 1, 8, and 16, or their dependent claims for this reason as well.

Furthermore, claim 1 recites "wherein the dynamic data comprises information indicative of a status of the managed server." As discussed, Kahn is absolutely devoid of a managed server. In addition, the content in Kahn has nothing to do with the status of a server. Instead, the content in Kahn is directed to news, pricing information, stock-quotes, etc. *See* page 1, para. 3. Accordingly, Kahn cannot anticipate claim 1 or its dependent claims for this reason as well.

Lastly, independent claim 8, as amended, recites "*localizing a language* of the Web page via language *localization files disposed in the embedded system*." Applicants emphasize (as acknowledged by the Examiner) that Kahn does not disclose localizing a language of the Kahn web page. *See* Final Office Action, page 7. Further, Kahn plainly does not disclose localization files dispose in an embedded

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system of a managed server. *See, e.g.*, Kahn, pages 2 and 3, paras. 0015-0031; Figs 1A – 3A. Accordingly, Kahn cannot anticipate claim 8 or its dependent claims for this reason as well.

In view of these deficiencies of Kahn, the Applicants respectfully requests withdrawal of the rejection of claims 1-20, 22, and 24 under 35 U.S.C. § 102.

Claim Rejections under 35 U.S.C. § 103(a)

The Examiner rejected claims 21, 23, and 25 under 35 U.S.C. § 103(a) as obvious over Kahn. Applicants respectfully traverse this rejection.

Legal Precedent

The burden of establishing a *prima facie* case of obviousness falls on the Examiner. *Ex parte Wolters and Kuypers*, 214 U.S.P.Q. 735 (PTO Bd. App. 1979). To establish a *prima facie* case, the Examiner must not only show that the modified reference includes *all* of the claimed elements, but also a convincing line of reason as to why one of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. *See Ex parte Clapp*, 227 U.S.P.Q. 972 (B.P.A.I. 1985). The mere fact that a reference <u>can</u> be modified does not render the resultant modified reference obvious unless the prior art also suggests the desirability of the modification. *See In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d. 1430 (Fed. Cir. 1990). The Examiner must provide <u>objective evidence</u>, rather than subjective belief and unknown authority, of the requisite motivation or suggestion to modify the cited reference. *See In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). The Federal Circuit has warned that the Examiner must not, "fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher." *In re Dembiczak*, F.3d 994, 999, 50 U.S.P.Q.2d 52 (Fed. Cir. 1999) (quoting *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983)).

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Dependent Claims

Applicants respectfully assert that the dependent claims 21, 23, and 25 are believed to be patentable over Kahn by virtue of their dependency on an allowable base claim and also because of the subject matter they separately recite. Moreover, the Examiner has failed to provide objective evidence of the requisite motivation or suggestion to modify Kahn in his effort to reach the present claims. *See In re Lee*, 61 U.S.P.Q.2d. 1430 (Fed. Cir. 2002). For these reasons, Applicants respectfully requests withdrawal of the rejection of claims 21, 23, and 25 under 35 U.S.C. § 103.
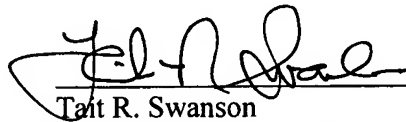
New Claims

Applicants added new dependent claims 26-28 as noted above. Each of these claims recites subject matter missing from the cited reference. For example, claim 26 recites "storing the object file temporarily in a cache of the requesting computer." Similarly, claim 27 recites "storing the dynamic data file in a cache of the remote browser while merging the dynamic data with the Web page." Lastly, claim 28 recites "wherein the management module comprises a lights-out management module." In view of the deficiencies of Kahn, these new claims are believed to be patentable over Kahn.

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Conclusion

Applicants respectfully submit that all pending claims should be in condition for allowance. However, if the Examiner believes certain amendments are necessary to clarify the present claims or if the Examiner wishes to resolve any other issues by way of a telephone conference, the Examiner is kindly invited to contact the undersigned attorney at the telephone number indicated below.

Respectfully submitted,

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